



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

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January 22, 2007

JAMES E. RISCH
Governor

KARL J. DREHER
Director

Mr. Tony Hackett, President
Idaho Ground Water Association, Inc.
55 SW 5th Avenue, Suite 100
Meridian, Idaho 83642

Sent by U.S. Mail and also by Facsimile to (208) 888-4586

Dear Mr. Hackett:

The Department of Water Resources received your hand delivered letter on the afternoon of January 12, 2007. I apologize that I was unable to meet with you and receive the letter personally because of other scheduled commitments.

The Department is disappointed to hear the Idaho Ground Water Association's (IGWA) position on the Negotiated Rulemaking process. As you know, the Department has dedicated considerable resources in staff time and funding for contractors and audiovisual teleconferencing communications for statewide participation of stakeholders. The IGWA has been an important participant in that process and has provided valuable input. To date, the Department has held eight formal negotiated rulemaking meetings, and has two additional meetings scheduled for January 26, 2007 and March 2, 2007.

Your letter states that the negotiated rulemaking meetings "...have been anything but negotiated discussions." The Department disagrees with that allegation. Department staff have listened and discussed in detail the issues that IGWA members and others have raised. In fact, the entire draft document has been changed extensively and repeatedly based on feedback from IGWA and other stakeholders. The Department is committed to the process, which is flexible and open to differing opinions, and we have demonstrated a willingness to accommodate modifications and changes. These changes are extensive and include but are not limited to the following portions of the Proposed Rule:

- Definitions
- Well Casing Requirements
- Thermoplastic Pipe
- Standards for Plumbness and Alignment
- Sealing Requirements
- Disinfection and Decontamination
- Sand Production
- Closed Loop Heat Exchange Wells
- Well Owner Responsibilities

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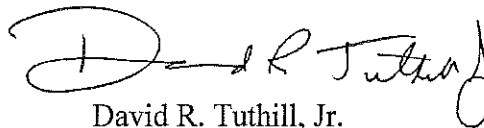
The Department agrees with IGWA's position that the topic of well sealing is one of the most important issues in the proposed rule. Although we have had some discussion on well sealing, the committee repeatedly decided to postpone detailed discussions on well sealing to fully discuss the other important issues in the proposed rule. The Department has two additional negotiated rulemaking meetings scheduled, and plans to devote most of the remaining time to well sealing. We hope that the additional meetings will allow for significant input and revisions in the well sealing language of the proposed draft to better protect Idaho's ground water resources.

IGWA requested that IDWR reconsider the January 26, 2007 scheduled negotiated rulemaking meeting and enter into a "new rulemaking effort" by engaging in face-to-face discussions between IDWR decision-makers and members of the IGWA board at your Meridian office. The Department has committed itself to scheduled negotiated rulemaking meetings at the Idaho Water Center where statewide participation via teleconferencing with IGWA and other important stakeholders can be accomplished. The proposed direct discussions with the IGWA Board at your office would exclude other important stakeholders in the negotiated rulemaking process. We hope that IGWA will reconsider and fully participate in the scheduled negotiated rulemaking meetings on January 26, and March 2, 2007.

Your letter proposed potential meeting dates of January 18th, 19th or 22nd as open dates to discuss the process with us. On very short notice, I offered to meet with representatives from IGWA at the Idaho Water Center on January 19, 2007. I left my schedule open from 8:00 am to 12:00 noon to discuss your letter and a path forward. When my staff contacted you to set up a meeting, we were informed that Mr. Roger Batt had been designated to be the single point of contact on this issue by IGWA. I was disappointed to learn that Mr. Batt was unable to meet with me according to the schedule provided to us in your letter.

The Department values the experience and expertise within the IGWA. We hope that you will continue to participate in the IDWR negotiated rulemaking process and look forward to your input on January 26 and March 2, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Tuthill, Jr.", written in a cursive style.

David R. Tuthill, Jr.
Interim Director

C: Jerry Rigby, Idaho Water Resource Board
Norm Semanko, Idaho Water Users Association